

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

APPENDIX H

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFF

William G. Ward
223 West Red Lion Road
Bear, DE 19701
(203) 974-9430

DEFENDANTS

United Parcel Service, Inc.
640 W. 3rd Street
Cincinnati, OH 45202

(b) County of Resident of First Listed Plaintiff Philadelphia, Pennsylvania
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Hamilton, Ohio
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Danny Elmore, Esquire
Elmore, Pugh & Warren, P.C.
1315 Walnut Street, Suite 800
Philadelphia, PA 19107
(215) 732-9011

Attorneys (If Known)
Miriam S. Edelstein, Esquire
Roy D. Prather III, Esquire

Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103
(215) 851-8100

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place Of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal <input type="checkbox"/> 423 Individual 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(G)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 765 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

(PLACE AN "X" IN ONE BOX ONLY)

V. ORIGIN

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Removal of Wrongful Discharge case based upon diversity jurisdiction (28 U.S.C. §§ 1332 and 1441)

VII. REQUESTED IN COMPLAINT ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND includes \$300,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE _____ DOCKET NUMBER _____

DATE 7/18/11 SIGNATURE OF A ATTORNEY OF RECORD - Roy D. Prather, III

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA - DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 223 West Red Lion Road, Bear, DE 19701

Address of Defendant: United Parcel Service, Inc., 15 E. Oregon Ave., Philadelphia, PA 19148

Place of Accident, Incident or Transaction: Philadelphia, PA

(Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities:

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

CIVIL: (Place 4 in ONE CATEGORY ONLY)

A. Federal Question Cases

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability -- Asbestos
9. ☒ All other Diversity Cases
(Please specify)
Failure to Promote and Wrongful Discharge

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Roy D. Prather III, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 5/24/12

Roy D. Prather III
Attorney-at-Law

306803
Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 28.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/24/12

Roy D. Prather III
Attorney-at-Law

306803
Attorney I.D. #

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

WILLIAM G. WARD, et al.,

Plaintiffs,

v.

UPS,

Defendant.

:
:
:
:
:
:
:
:
:
:

CIVIL ACTION

NO.


In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

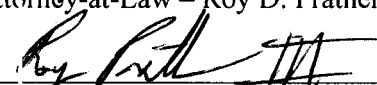
SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus - Cases brought under 28 U.S.C. §2241 through §2255. ☐
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ☐
- (f) Standard Management - Cases that do not fall into any one of the other tracks ☒

5/24/12

Date


Attorney-at-Law – Roy D. Prather III


Attorney for Defendant,
United Parcel Service, Inc.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

William G. Ward,
223 West Red Lion Road
Bear, DE 19701

and
James McQuade
7 Equestrian Road
Egg Harbor Township, NJ 08234

and
Jovanny Padin
4339 Chippendale Street
Philadelphia, PA 19136

and
Vasken Sarkahian
325 Clearbrooke Lane
Landsdowne, PA 19050,

Plaintiffs,

v.

UPS
1 Hog Island Road
Philadelphia, PA 19153,

Defendant.

NO. 12-_____

NOTICE OF REMOVAL

Defendant, incorrectly identified by Plaintiffs as “UPS”¹, hereby removes the above-captioned matter to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 from the Court of Common Pleas, Philadelphia County, Pennsylvania, where it is currently pending, at Case No. June Term 2011 No. 110600107.

REMOVAL TO THIS JUDICIAL DISTRICT IS PROPER AND TIMELY

1. Plaintiffs William G. Ward (“Ward”), James McQuade (“McQuade”), Jovanny Padin (“Padin”), and Vasken Sarkahian (“Sarkahian”) (collectively, “Plaintiffs”) commenced

¹ The correct name of the entity that employed Plaintiffs is “United Parcel Service, Inc.” (hereinafter “Defendant” or “UPS”).

this action in the Philadelphia County Court of Common Pleas by filing a Complaint on June 6, 2011, Case No. June Term 2011 No. 110600107, a true and correct copy of which is attached hereto as Exhibit A.

2. UPS was served by the Dauphin County Sheriff's Office with a copy of the Complaint on June 21, 2011. A true and correct copy of the Philadelphia Court of Common Pleas docket reflecting this service is attached hereto as Exhibit B.

3. In their Complaint, Plaintiffs requested damages "in excess of Fifty-Thousand Dollars" but did not state any other specifics with respect to the amount of damages being sought either separately or in the aggregate in this action. *See* Complaint, Exhibit A.

4. On July 14, 2011, Defendant was served through the Corporation Service Company with Plaintiffs' Notice of Praecipe to Enter Judgment of Non Pros, a true and correct copy of which is attached hereto as Exhibit C.

5. Defendant filed an Answer and New Matter in response to Plaintiffs' Complaint on July 22, 2011, a true and correct copy of which is attached hereto as Exhibit D.

6. Requesting clarification of the amount Plaintiffs are seeking in damages, Defendant served each Plaintiff with its First Request for Admissions ("RFA") on March 23, 2012. True and correct copies of the RFA's directed to Plaintiffs Ward, McQuade, Padin, and Sarkahian are attached hereto as Exhibit E.

7. Plaintiffs served a joint response to Defendant's RFA's on April 27, 2012. In their response, Plaintiffs state that each plaintiff "is seeking total damages in excess of \$75,000.00 in this matter." A true and correct copy of Plaintiffs' joint response to Defendant's RFA's is attached hereto as Exhibit F.

8. Plaintiffs' response to the RFA's was the first pleading, notice order or other paper in this action from which it could be ascertained that this action is removable.

9. A Case Management Conference was scheduled, and a Case Management Order was entered on September 8, 2011, setting the close of discovery as September 4, 2012, and listing the case to be trial ready on or after January 7, 2013. A true and correct copy of the Case Management Order is attached hereto as Exhibit G.

10. No further pleadings have been filed, and no other proceedings have yet occurred in the underlying Philadelphia County civil action. *See* Docket, Exhibit B.

ALLEGATIONS OF THE COMPLAINT

11. By this action, Plaintiff Ward claims that he was wrongfully denied promotion and was wrongfully terminated and Plaintiffs McQuade, Pavin, and Sarkahian claim that they were wrongfully denied promotion in violation of public policy. Exhibit A, Compl., ¶¶ 29-32, 36, 45, 55.

REMOVAL IS PROPER UNDER 28 U.S.C. §§ 1332, 1441 and 1446

12. This action is a civil action within the original jurisdiction of this Court, and may be removed pursuant to 28 U.S.C. § 1332 and the procedures set forth in 28 U.S.C. § 1446, based on diversity of citizenship and the amount in controversy.

13. Removal to this Court is proper under 28 U.S.C. § 1441(a) because this is a civil action initiated in a state court over which the district courts of the United States have original jurisdiction pursuant to 28 U.S.C. § 1332, and this District Court embraces the place in which the action is pending.

14. 28 U.S.C. § 1332 provides that federal courts have diversity jurisdiction over actions where (1) diversity of citizenship exists and, (2) the aggregate amount in controversy exceeds \$75,000. These requirements are met in this action as set forth below.

15. There is complete diversity of citizenship between the parties.

16. Plaintiff Ward is a resident and citizen of Delaware. Compl., ¶ 1.

17. Plaintiff McQuade is a resident and citizen of New Jersey. Compl., ¶ 2.

18. Plaintiffs Padin and Sarkahian are residents and citizens of Pennsylvania. Compl., ¶¶ 3-4.

19. United Parcel Service, Inc. is an Ohio corporation with its principal place of business in Georgia. Defendant's 7.1 Disclosure Statement (filed contemporaneously with this Notice of Removal). Accordingly, UPS is a citizen of Ohio and Georgia. 28 U.S.C. § 1332(c).

20. Plaintiffs and Defendant are thus citizens of different states.

21. This action satisfies the requirement of 28 U.S.C. § 1332 in that the amount in controversy exceeds the sum or value of \$75,000.

22. Plaintiffs seek damages well in excess of \$75,000.00. *See, e.g.,* Exhibit H, Plaintiffs' Responses to Request for Admission (seeking damages in excess of \$75,000.00. for *each* Plaintiff).

23. Venue is proper in this Court because it is the "district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

**ALL PAPERS, PLEADINGS AND ORDERS PURPORTEDLY SERVED ON
DEFENDANT ARE ATTACHED AND A NOTICE OF
REMOVAL IS BEING FILED WITH THE STATE COURT**

24. Written notice of the filing of this Notice of Removal, together with a copy of this Notice of Removal and all attachments, will be promptly served upon all parties and filed with

the Prothonotary of the Philadelphia County Court of Common Pleas, Philadelphia, Pennsylvania, in accordance with 28 U.S.C. § 1446(d).

25. No admission of fact, law or liability is intended by this Notice of Removal, and Defendant expressly preserves all of its defenses, denials and/or objections to Plaintiff's Complaint and each and every allegation thereof.

WHEREFORE, Defendant requests that the above-captioned action be removed from the Court of Common Pleas, Philadelphia County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania, and that all further proceedings in this action be held before this Court.

Respectfully submitted,



Miriam S. Edelstein (Pa. Id. No. 204557)

Roy D. Prather III (Pa. Id. No. 306803)

REED SMITH LLP

2500 One Liberty Place

1650 Market Street

Philadelphia, PA 19103-7301

(215) 851-8100


Attorney for Defendant
United Parcel Service, Inc.

Dated: May 24, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of May, 2012, the foregoing was filed by hand and caused to be served upon the following party via U.S. First Class Mail, postage prepaid:

Danny Elmore, Esq.
Elmore, Pugh & Warren, P.C.
1315 Walnut Street, Ste. 800
Philadelphia, PA 19107



Roy D. Prather III